

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

IN RE:)	
)	
ITT EDUCATIONAL SERVICES, INC., <i>et al.</i> ¹)	Case No. 16-07207-JMC-7A
)	
Debtors.)	Jointly Administered
)	
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DEBORAH J. CARUSO, the CHAPTER 7)	
TRUSTEE for ITT EDUCATIONAL)	
SERVICES, INC., ESI SERVICE CORP. and)	
DANIEL WEBSTER COLLEGE, INC.,)	
)	
Plaintiff,)	Adversary Proceeding No. 18-50100
vs.)	
)	
KEVIN MODANY, JOHN E. DEAN,)	
C. DAVID BROWN II, JOANNA T. LAU,)	
THOMAS I. MORGAN, JOHN VINCENT)	
WEBER, JOHN F. COZZI, SAMUEL L.)	
ODLE, and JERRY M. COHEN,)	
)	
Defendants.)	

MOTION FOR STAY PENDING DECISION ON WITHDRAWAL OF REFERENCE

Come now John E. Dean, C. David Brown II, Joanna T. Lau, Thomas I. Morgan, John Vincent Weber, John F. Cozzi, Samuel L. Odle, and Jerry M. Cohen (the “Former Directors”), by counsel, and for their Motion for Stay Pending Decision on Withdrawal of Reference (“Motion”) respectfully represent that:

1. On May 31, 2018, Deborah J. Caruso, the Chapter 7 trustee herein (“Trustee”) filed her Complaint initiating this adversary proceeding. The current due date for the Former Directors’ response to the Complaint is August 2, 2018 (the “Response Date”). (Doc. 29).

¹ The debtors in these cases, along with the last four digits of their respective federal tax identification numbers are ITT Educational Services, Inc. [1311]; ESI Service Corp. [2117]; and Daniel Webster College, Inc. [5980].

2. On June 28, 2018, the Former Directors filed their Motion by Former Directors to Withdraw the Reference (“Motion to Withdraw Reference”), requesting that the district court withdraw the reference of this adversary proceeding pursuant to 28 U.S.C. §157(d).

3. The district court has not yet ruled on the Motion to Withdraw Reference.

4. Pursuant to Fed. R. Bankr. P. 5011(c) and S.D.Ind. L.R. B-5011-1(c), the filing of a motion to withdraw the reference does not automatically stay the proceedings in the bankruptcy court. However, “the bankruptcy judge may stay, on such terms and conditions as are proper, proceedings pending disposition of the motion [to withdraw the reference].” Fed. R. Bankr. P. 5011(c).

5. It is in the best interests of all parties, and will promote judicial efficiency, to maintain the status quo in this action pending a decision by the district court on the Motion to Withdraw Reference.

6. The Former Directors request that the court enter an order (a) staying all further action in this adversary proceeding pending a ruling by the district court on the Motion to Withdraw Reference including, without limitation, all hearings, response deadlines, filings and discovery and (b) setting the Response Date as the later of (i) ten (10) days after entry of the district court’s ruling on the Motion to Withdraw Reference or (ii) the current Response Date.

WHEREFORE, the Former Directors respectfully request that the court enter an order (a) staying all further action in this adversary proceeding pending a ruling by the district court on the Motion to Withdraw Reference including, without limitation, all hearings, response deadlines, filings and discovery, (b) setting the Response Date as the later of (i) ten (10) days after entry of the district court’s ruling on the Motion to Withdraw Reference or (ii) the current Response Date, and (c) granting such other and further relief as is just and proper.

Respectfully submitted,

/s/ James P. Moloy

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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of June, 2018, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on the 28th day of June, 2018, a copy of the foregoing was mailed by first-class United States mail, postage prepaid, and properly addressed to the following:

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/s/ James P. Moloy
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